

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Andrea McKinley,

Plaintiff,

v.

UBS Financial Services, Inc.,

Defendant.

Civil Action No. 3:21-cv-241

NOTICE OF REMOVAL

Defendant UBS Financial Services, Inc. (“Defendant” or “UBS”) removes the above-entitled action styled *Andrea McKinley v. UBS Financial Services, Inc.*, Case No. 21-CVS-5376, from the General Court of Justice, Superior Court Division, for Mecklenburg County, State of North Carolina, to the United States District Court for the Western District of North Carolina, Charlotte Division. Removal Jurisdiction exists under 28 U.S.C. §§ 1331 and 1441. In support of its Notice of Removal, Defendant states as follows:

INTRODUCTION

1. On April 5, 2021, Plaintiff Andrea McKinley (“Plaintiff”) filed and received an Application and Order Extending Time to File Complaint (“application”). Thereafter, Plaintiff filed her Complaint on April 5, 2021 in Mecklenburg County Superior Court (“Complaint”). A true and accurate copy of the Application is attached hereto as Exhibit A.

2. On April 26, 2021, Defendant was served with a copy of the Complaint and Summons. True and accurate copies of the Complaint and Summons served upon Defendant are attached hereto as Exhibits B and C, respectively.

3. The Application, Complaint and the Summons attached as Exhibits A, B and C constitute all of the process, pleadings, and orders served upon Defendant in this action. Defendant has filed no pleadings in the Superior Court in this action.

II. JURISDICTION AND VENUE

4. Venue is proper in the United States District Court for the Western District of North Carolina, Charlotte Division, as this case was originally filed in Mecklenburg County, North Carolina. *See* 28 U.S.C. § 1446(a).

5. This Court has subject matter jurisdiction in this case based upon federal question jurisdiction because the crux of Plaintiff's lawsuit arises under the laws of the United States. Specifically, Plaintiff alleges that she was subjected to disability discrimination in violation of the Americans With Disabilities Act, 42 U.S.C. §12101, *et seq.* and rights were violated under the Family Medical Leave Act, 29 U.S.C. §2615(a)(1) and (a)(2).

6. Additionally, although Plaintiff also sets forth an additional cause of action against Defendant alleging a North Carolina statutory claim of "Blacklisting of Employment" pursuant to NC. Gen. Stat. §14-355, this claim is within the supplemental jurisdiction of this Court under the provisions of 28 U.S.C. § 1367. All of Plaintiff's claims arise from an alleged common nucleus of operative facts and the state law claim is so related to the federal claims that they form the same case or controversy.

7. Pursuant to 28 U.S.C. §1331, this Court has federal question jurisdiction over this action because claims arising under federal law are federal causes of action over which this Court has original federal question jurisdiction. Thus, this action may be removed on the basis of original federal question jurisdiction pursuant to 28 U.S.C. § 1441(b).

III. PROCEDURAL REQUIREMENTS

8. This Notice of Removal has been timely filed within thirty (30) days of Defendant's receipt of the Complaint as required by 28 U.S.C. § 1446(b).

9. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of Mecklenburg County Superior Court and served upon all adverse parties promptly after the filing of the original Notice of Removal in this action. A copy of this Notice is attached hereto as Exhibit D.

IV. CONCLUSION

WHEREFORE, having fulfilled all statutory requirements, UBS Financial Services, Inc. hereby removes this action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, to this Court, and requests that this Court assume full jurisdiction over this matter as provided by law.

Dated: May 21, 2021

/s/ Stephen D. Dellinger
Stephen D. Dellinger, Bar No. 16609
sdellinger@littler.com

LITTLER MENDELSON P.C.
Bank of America Corporate Center
100 North Tryon Street
Suite 4150
Charlotte, NC 28202
Telephone: 704.972.7000
Facsimile: 704.333.4005

*Attorneys for Defendant
UBS Financial Services, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on May 21, 2021, I electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system, and served the same upon the following counsel of record via U.S. Mail, first class, proper postage affixed thereto and addressed as follows:

Eric Spengler, Esq.
Spengler Agans Bradley, PLLC
325 N. Caswell Road
Charlotte, NC 28204

Attorney for Plaintiff

/s/ Stephen D. Dellinger
Stephen D. Dellinger, Bar No. 16609
sdellinger@littler.com

LITTLER MENDELSON P.C.
Bank of America Corporate Center
100 North Tryon Street
Suite 4150
Charlotte, NC 28202
Telephone: 704.972.7000
Facsimile: 704.333.4005

Attorneys for Defendant
UBS Financial Services, Inc.

4827-7771-5690.1 / 094275-1014